



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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MEMORANDUM

Date	Action Requested
February 14, 2006	Please review and comment on the proposed fiscal policy. Any comments should include a reference to specific fiscal policy recommendation under review and be sent back via e-mail to denise.friday@jud.ca.gov .
To	Deadline
Presiding Judges of the Superior Courts	March 15, 2006
Executive Officers of the Superior Courts	Contact
Fiscal Contacts of the Superior Courts	I. Denise Friday
Other Interested Persons and Organizations	415-865-7536 phone
From	415-865-4331 fax
Christine M. Hansen	denise.friday@jud.ca.gov
Director, Finance Division	
Subject	
Notification of 30-day Comment Period—	
Proposed Fiscal Policy for Court Assistance	
Programs (CAP) and Traffic Violator Fees	

The purpose of this memorandum is to solicit your review and comment on proposed fiscal policy for court assistance programs (CAP) and traffic violator fees. California Vehicle Code section 11205.4 requires the Judicial Council to collect information from the trial courts and report to the Legislature by June 1, 2005, concerning

1. How courts work with traffic violator schools (TVS), court-approved programs of traffic safety instruction, and court assistance programs;
2. How courts collect fees from traffic violators to fund TVS programs and other court approved programs of traffic safety instruction;

3. How courts expend the fees they collect from traffic violators under the statutes that govern TVS programs and other court approved programs of traffic safety instruction; and,
4. Possible approaches to establishing a fiscal policy for the “CAP fee” charged under Vehicle Code section 11205(m).

On May 10, 2005, the Judicial Council submitted its report to the Legislature on Vehicle Code 11205.4, *CAPs and Traffic Violators Fees*. This comment period is for a proposed fiscal policy section governing the fees charged under Vehicle Code section 11205 (item 4 above) to those traffic violators who have chosen or been ordered to attend a licensed traffic violator school or court-approved program of traffic safety instruction. The proposed fiscal policy is posted at www.courtinfo.ca.gov/reference/4_29traf.htm for your review and comment.

Background

Discussions within the Legislature have focused on the amount of the fee charged in some courts and who should properly be charged the fee, as well as how to reach a proper balance between CAP fee revenues and expenditures. To address these issues, Vehicle Code section 11205.4 instructs the Judicial Council to recommend one or more approaches to setting a fiscal policy for CAP fees.

Administrative Office of the Courts (AOC) staff first spoke with interested stakeholders to determine what information would be needed to carry out the legislative mandates. Court and legislative staff, as well as representatives from the CAP and traffic school industries, were consulted. Based on the information that was received, a survey consisting of 27 questions was submitted to trial courts, and responses were received from 52 courts.

The information received from the courts was summarized in the report to the Legislature, and the analysis of the data resulted in identification of 13 issues related to the CAP fee. In the report, AOC staff proposed recommendations for each of the issues. The report concluded that although many of these recommendations already represent existing court practice, the AOC may wish to explore adopting them as fiscal policies.

In November 2005, a group composed of nine trial court representatives with expertise in traffic and knowledge of court assistance programs was formed to review the proposals in the report to the Legislature, and to make recommendations to the Trial Court Budget Working Group related to fiscal policy for CAPs and traffic violator fees.

Submitting Comments

The policy proposal matrix indicates each issue and policy recommendation that was identified in the report to the Legislature on Vehicle Code 11205.4 *CAPs and Traffic Violators Fees* and the proposed fiscal policy related to the issue. **Please focus your comments on the proposed fiscal policy recommendations only.**

February 14, 2006

Page 3

DEADLINE FOR COMMENT: 5 p.m., Wednesday, March 15, 2006
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You are encouraged to respond via e-mail to Denise Friday @ denise.friday@jud.ca.gov. You may also write or fax your response to:

I. Denise Friday
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688
E-mail: denise.friday@jud.ca.gov
Fax: 415-865-4331

If you have any questions or concerns regarding this information or the proposed fiscal policy, please contact Denise Friday at 415-865-7536.

The Trial Court Budget Working Group appreciates your participation in this process.

CMH/DF/ob

Enclosure

cc: Stephen Nash, Assistant Director of Finance, AOC Office of Budget Management
Marcia Caballin, Budget Manager, AOC Office of Budget Management
Eraina Ortega, Manager, AOC Office of Governmental Affairs
Denise Friday, Supervising Budget Analyst, AOC Trial Court Regional Budget Support Unit
Courtney Tucker, Research Attorney, AOC Office of the General Counsel

CAPS and Traffic Violator Fees Fiscal Policy Recommendations

Issue	Policy Proposal	Proposed Fiscal Policy Recommendation
1. Who should be charged the \$24 fee authorized by Vehicle Code section 42007.1?	Consistent with Vehicle Code section 42007(a), the \$24 fee should only be collected from persons who are ordered by the court or permitted to attend a traffic violator school pursuant to section 42005 or who attend any other court-supervised program of traffic safety instruction.	Under Vehicle Code section 42007(a), the \$24 fee shall only be collected from persons who are ordered by the court or permitted to attend a traffic violator school pursuant to section 42005 or who attend any other court-supervised program of traffic safety instruction.
2. Who should be charged the court assistance program (CAP) fee? ¹	The CAP fee should only be charged to those individuals who have been permitted or agreed to attend a traffic violator school (TVS) or court-approved programs of traffic safety instruction (CAPTSI).	Under Vehicle Code section 11205.1 the traffic school services and monitoring fee shall only be charged to those individuals who have been permitted or agreed to attend a traffic violator school or court-approved programs of traffic safety instruction.
3. How should courts determine the amount of the CAP fee?	The CAP fee is intended to defray costs. The amount of the CAP fee collected should be related to the actual costs incurred by the CAP in providing services to the court, and the actual costs incurred by the court in operating its traffic school program. Any CAP fee adjustments should be justified by tangible data demonstrating the need for that adjustment.	The traffic school services and monitoring fee is intended to defray costs. Consistent with Vehicle Code section 11205 the amount of the fee collected should be reasonably related to actual traffic school services and monitoring costs. Any fee amount should be justified by tangible data demonstrating the need for that amount.

¹ As noted on page 5 of the Administrative Office of the Courts' *CAPs and Traffic Violator Fee, Report to the Legislature on Vehicle Code Section 11205.4*, the term "CAP" is broadly defined as a public or private nonprofit agency that provides services, under contract with a court, to process traffic violators. The services that may be provided by a CAP are also broadly defined to include services related to "traffic violator school administration and monitoring" (Veh. Code, § 11205(l)), "monitoring reports and services provided to the court" (Veh. Code, § 11205(m)), "assist[ing] the court in performing services related to the processing of traffic violators," "include[ing] those services relating to the processing of traffic violators at, and for, the court" (Veh. Code, § 11205.2(b)). However, when a CAP monitors a traffic violator school, the role of a CAP is limited to that set forth in chapter 1.5 of division 5 of the Vehicle Code. (Veh. Code, § 11205.2(c).)

Issue	Policy Proposal	Proposed Fiscal Policy Recommendation
4. For what functions may CAP fee revenues be properly spent?	CAP fee revenues should be spent (1) for services that a CAP is authorized to provide a court and (2) for other costs that a court incurs in operating its traffic school program.	No recommendation. This issue is addressed as part of #3 above.
5. What requirements must a court meet to charge traffic violators a CAP fee?	The Judicial Council should seek amendments to the relevant statutes to allow courts that offer traffic school services to charge a CAP fee regardless of whether they utilize a CAP.	This proposal was not addressed as it is not fiscal policy. This issue is being addressed by the AOC Office of Governmental Affairs.
6. Should all courts that use a CAP institute a CAP fee?	The CAP fee is intended to defray costs. Courts that use a CAP should be strongly encouraged to collect a CAP fee to mitigate their costs.	The traffic school services and monitoring fee is intended to defray costs. Courts that use a court assistance program should be strongly encouraged to collect a traffic school services and monitoring fee to mitigate costs.
7. Should courts engage in a competitive bid process with prospective CAPs before choosing which CAP to contract with?	Courts should contract for CAP services in accordance with existing Judicial Council procurement policies, as outlined in section 6 FIN 6.01 of the <i>Trial Court Financial Policies and Procedures Manual</i> .	Courts should contract for CAP services subject to existing contract requirements as specified in FIN No. 6.01 Procurement in the <i>Trial Court Financial Policies and Procedures Manual</i> .
8. Should courts keep a record of the monitoring activities performed by their CAPs?	Yes, CAPs should forward their monitoring reports to each appropriate court (as required by Vehicle Code section 11205.2(c)), and courts should keep these reports on file.	CAPs should forward their monitoring reports to each appropriate court (as required by Vehicle Code section 11205.2(c)) for appropriate review and action. Courts should keep these reports on file for five years as specified in FIN No. 12.01 Record Retention in the <i>Trial Court Financial Policies and Procedures Manual</i> .
9. Should courts be knowledgeable about the services provided by the CAPs and take steps to ensure that the CAPs are fulfilling the terms of the contract?	Courts should monitor contracts in accordance with section 7 FIN 7.03 Contract Administration of the <i>Trial Court Financial Policies and Procedures Manual</i> .	Courts should monitor contracts in accordance with FIN No. 7.03 Contract Administration of the <i>Trial Court Financial Policies and Procedures Manual</i> .

Issue	Policy Proposal	Proposed Fiscal Policy Recommendation
10. Should the Judicial Council adopt a policy regarding the use of CAP fees to purchase equipment and supplies for the court?	Yes. Equipment and supplies purchased with CAP fees should primarily be used for TVS and CAPTSI program purposes. Equipment and supplies provided by the CAP should be specified in the contract as outlined in section 7 FIN 7.01 of the <i>Trial Court Policies and Procedures Manual</i> .	Equipment and supplies provided by the CAP should be specified in the contract as outlined in FIN 7.01 Contracts of the <i>Trial Court Policies and Procedures Manual</i> .
11. Should the Judicial Council adopt a policy regarding the time frame for CAPs to process certificates of completion for students who successfully complete a TVS or CAPTSI?	Yes. Courts should explicitly specify, in their contracts with CAPs, a time frame for the processing of certificates of completion. If a CAP offers expedited service for an additional fee, the traffic violator should be apprised of the normal turnaround time for non-expedited service.	Courts should indicate in contracts with CAPs a reasonable time frame for CAPs to process certificates of completion for students who successfully complete a TVS or CAPTSI. If a CAP offers expedited service for an additional fee, the contract should specify that the traffic violator should be apprised of the normal turnaround time for non-expedited service.
12. Should the Judicial Council adopt a policy regarding identity verification procedures for students who attend CAPTSI?	If yes, the Judicial Council should strive for uniformity among courts. Identity verification should be required either in all courts that use CAPTSI or in none. The Judicial Council may also wish to publish a list of approved methods of verifying identity.	This proposal was not addressed as it is not fiscal policy, and may be more appropriately addressed by a Judicial Council advisory committee. AOC staff will address this issue through a separate process.
13. What steps should be taken if the Legislature decides to shift regulation of CAPTSI from courts to the DMV, so that CAPTSI are regulated in the same manner as TVS?	In the event that the Legislature decides to shift regulation of CAPTSI from the courts to the DMV, the Administrative Office of the Courts' Finance Division should reexamine court policies with respect to CAPs to make sure that they are consistent with the change in oversight responsibilities.	This proposal was not addressed as it is not fiscal policy. The AOC Office of Governmental Affairs monitors all legislation impacting the trial courts, and will notify the AOC Finance Division if legislation is introduced which would impact the fiscal policies related to CAPTSI.